

DRAWING AMENDMENTS

Replacement drawing page 1/2 is enclosed with this Response and Amendment so as to correctly label line 4-4 as line 5-5 and to show the ostomy comfort pad having an outer cover located on both the front and back sections of the ostomy comfort pad.

REMARKS/ARGUMENTS

Applicants have replaced drawing page 1/2 so as to show the back section having a cover as disclosed in the specification in FIG. 2. In addition, replacement drawing page 1/2 includes an amendment to FIG. 1 wherein line 4-4 is replaced to correctly indicate line 5-5.

In addition, Applicants have amended the specification so as to label the ostomy comfort pad (1) as an “ostomy comfort pad, generally.” By including the term “generally” to describe the ostomy comfort pad, it is Applicants’ intention to highlight the fact that the ostomy comfort pad is used to describe Applicants’ invention in general terms and includes all of the elements disclosed in the specification. As indicated on page 6, lines 10-12, “a thin layer of filling 8, preferably made of pinewood fluff, located within the pad 1 absorbs the heat given off from excrements.” Therefore, Applicants’ invention is an ostomy comfort pad, generally (1) having an outer cover (13) and filling (8) located within the outer cover (13). Thus, there are two separate elements to Applicants’ invention: the cover located on both the front and back sections and the filling.

Next, with respect to the rejection of claims 1-3, 5-7 and 10 under 35 USC 102(b) for lack of novelty based on the von Emster patent, although it is true the von Emster patent discloses an ostomy *pouch cover* having a front section and a back section having edges, the front section being attached to the back section along the edges, the front and back sections having a top section, a body section and a bottom section, the top sections having at least one arm, the arm having at least one fastener, the body sections being of a predetermined length, the body section having a cut-out and the front and back sections having a cover, it is not true that the von Emster patent includes a front bottom section having a pocket and a filling located between the front and back sections.

First and foremost, the von Emster patent discloses an ostomy bag *pouch cover* whereas Applicants’ invention discloses an ostomy comfort pad that does not cover the ostomy bag, but rather *shields* the user from the heat transferred from excrements that fill the ostomy bag. Thus, a first notable, key distinction is that Applicants’ invention is not designed to cover the ostomy appliance, but rather is designed to shield the user from heat.

Second, the von Emster patent does not disclose a pocket as is claimed in Applicants' amended first claim. Rather, the von Emster patent discloses a "bottom opening" (13) that permits the user to drain the ostomy pouch. The bottom opening (13) is closed by a front flap (11) and a back flap (12) that fasten together with mating hook H and loop L fasteners. The bottom opening (13) allows the user access to the drain tube of a urostomy bag or the throat at the bottom of an ileostomy pouch, so that the pouch can be emptied without removing the cover" (see cols. 3-4, lines 62 - 1). Because the von Emster invention discloses a *pouch cover*, the von Emster invention *covers* the ileostomy pouch. Thus, the bottom opening permits a user access to the ostomy pouch for draining purposes as it is openable and closable. In addition, the ileostomy pouch is able to move within the von Emster cover as it is not secured to the ileostomy pouch.

On the other hand, as highlighted in amended independent claim 1, Applicants' invention includes a pocket (5) that is used for the acceptance of an ostomy appliance clip. Also, because Applicants' invention does not cover the ostomy pouch, the pocket need not be opened to permit draining of the ostomy bag; rather, the clip is removed from the pocket and the appliance is drained. In addition, the pocket of Applicants' invention is permanently closed, as opposed to von Emster's bottom opening which may unintentionally become opened. Finally, because the ostomy appliance clip, and thus ostomy appliance, are maintained within the pocket, Applicants' invention does not permit the ostomy appliance to move ^{as it} ~~when it is~~ becoming full of liquids or when the user moves.

Third, the von Emster patent does not disclose a filling located between the front and back sections. Although it is true the von Emster patent discloses an "ostomy pouch cover 5 [that] is presently manufactured and sold in two fabrics, a 50%-50% cotton and polyester blend, a 100% nylon tricot, though it could conceivably be made in almost any material which is knitted, woven, nonwoven, or could even be made of polymer sheet" (see col. 2, lines 60-65), this disclosure does not indicate that a filling is located *between* the covers. Rather, the von Emster disclosure states that the cover may be made of any of the above listed materials.

On the other hand, Applicants' invention is an ostomy comfort pad having front and back sections wherein a filling is located between the front and back sections. Thus, Applicants' invention includes an additional filling element that is not disclosed in the von Emster patent. Therefore, because the von Emster patent does not disclose two elements of Applicants' invention, namely a pocket and filling, Applicants' invention as claimed in claim 1 does not lack novelty in view of the von Emster patent.

In addition, as claims 2-3, 5-7 and 10 are dependent upon claim 1 and all of the elements claimed in claim 1 are not disclosed in the von Emster patent, Applicants' invention as claimed in these claims does not lack novelty in view of the von Emster patent.

Next, with regards the rejection of claim of claim 4 under 35 USC 103 for obviousness based on the von Emster patent, as noted above, the von Emster patent does not disclose all of the elements of Applicants' invention as claimed in claim 1. Therefore, although it is true the von Emster patent discloses a fastener and it would have been obvious to one having ordinary skill in the art to replace the von Emster fastener with an adhesive fastener as is disclosed in Applicants' invention, the von Emster does not disclose all of the elements of Applicants' invention as is claimed in independent claim 1. Therefore, even if the von Emster taught the use of an adhesive fastener, Applicants' invention would still not have been obvious as the von Emster patent does not disclose a pocket and a filling as is claimed in independent claim 1.

Next, with respect to the rejection of claim 8 under 35 USC 103 for obviousness based on the von Emster patent in further view of the Hogan patent, although it is true the Hogan patent teaches an ostomy appliance with a polypropylene cover, neither the von Emster nor the Hogan patent discloses an ostomy comfort pad similar to Applicants' invention including a pocket and a filling. Therefore, although claim 8 claims the cover to be polypropylene, because claim 8 is dependent upon claim 1 and neither the von Emster nor the Hogan patents disclose all of the elements listed in claim 1, it would not have been obvious to one having ordinary skill in the art to combine Hogan's polypropylene cover with von Emster's ostomy pouch cover to create Applicants' ostomy comfort pad.

Finally, with regards to the rejection of claim 9 under 35 USC 103 for obviousness based on the von Emster patent in view of the Zedlitz published patent application, although it is true the Zedlitz published patent application discloses an absorbent ostomy pad system wherein the body of the pad is formed of an organic cellulose fluff material derived from wood pulp, as claim 9 is dependent upon claim 1 and neither the von Emster patent nor the Zedlitz published patent application discloses all of the elements of independent claim 1, namely a pocket and filling located between a front and back section, it would not have been obvious to one having ordinary skill in the art to create Applicants' invention based on a review of the von Emster patent and the Zedlitz published patent application.


In addition, although not specifically rejected under 35 USC 103, it is Applicants' contention that although having body sections that are sized slightly larger than an ostomy appliance and the bottom section sized slightly larger than an ostomy appliance is not novel and nonobvious on its own merits, when combining the elements claimed in claim 10 with independent claim 1 which includes a pocket and filling not disclosed in the above prior art, it would not have been obvious to one having ordinary skill in the art to combine features of the von Emster and Hogan patents with the Zedlitz published patent application to create Applicants' invention.

Finally, Applicants' maintain that a key structural distinction between their invention and those of the prior art is the fact that Applicants' invention is *not* but rather a *shield* that is placed between the user and the ostomy bag/pouch/appliance. In view of the above amendment to claim 1 and the fact that none of the above prior art include the structural distinctions claimed in claim 1, Applicants believe no further amendments to the claims are necessary.

In view of the above amendments and remarks, Applicants believe the examiner will now find this patent application in a position for allowance and its expeditious passage to same is requested.

Should the examiner disagree or have any questions, comments or suggestions that will render this application allowable, a call to the undersigned attorneys of record is invited.

Respectfully submitted,
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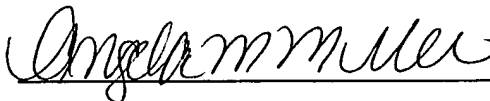
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CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I HEREBY CERTIFY that the above Response and Amendment is being deposited with the United States Postal Service by first class mail on the 14th day of April, 2006, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Attorney